

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVA VALLENTGOED,

Plaintiff,

V.

BNSF RAILWAY COMPANY,

Defendant.

CASE NO. 2:21-cv-01170-TL

MINUTE ORDER

The following Minute Order is made at the direction of the Court, the Honorable Tana Lin, United States District Judge:

(1) Plaintiff filed a Complaint on August 27, 2021. Dkt. No. 1. The Court has now issued two orders to show cause why the case should not be dismissed for lack of prosecution. Dkt. Nos. 8, 12. In response to the latest order to show cause, Plaintiff's counsel represents that he spoke with Defendant's counsel last week about service of process and that Defendant asked to be formally served with process. Dkt. No. 13.

Plaintiff's counsel also explains that "[i]t took an inordinate amount of time to get the

1 case transferred from Seattle to Tacoma,” that he is working to update the caption of
2 the case, and that he is “now ready to proceed with the case” *Id.*

3 (2) “If a defendant is not served within 90 days after the complaint is filed, the court . . .
4 must dismiss the action without prejudice against that defendant or order that service
5 be made within a specified time.” Fed. R. Civ. P. 4(m). “[I]f the plaintiff shows good
6 cause for the failure, the court must extend the time for service for an appropriate
7 period.” *Id.* As an initial matter, the Court notes that Plaintiff waited nearly six
8 months after filing the case to move to transfer the case, and so was already well past
9 the 90-day service requirement at the time the motion was filed. Plaintiff explains
10 neither why waiting for the case to be transferred was necessary for service of
11 process to occur nor why it took nearly eight months to discuss service of process
12 with Defendant. The Court is not persuaded that Plaintiff has shown good cause for
13 the delay.

14 (3) Nonetheless, in the interests of justice, the Court will provide Plaintiff with one
15 extension of time for completing service of process. No further extensions will be
16 permitted without the Court’s order and finding of good cause. If Plaintiff fails to
17 serve process on Defendant on a timely basis, Defendant will be dismissed without
18 prejudice pursuant to Rule 4(m).

19 (4) Accordingly, it is hereby ORDERED: Plaintiff is DIRECTED to complete service of
20 process on Defendant **within twenty-one (21) days** of this Order and file the
21 appropriate proof or waiver of service within that time.

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1 Dated this 20th day of April 2022.

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3 Ravi Subramanian
4 Clerk of the Court

5 s/ Kadya Peter
6 Deputy Clerk

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